

§ 271.2 Policy.

(a) Financial records shall be sought regarding any individual who is an applicant for employment with the NSA/CSS or who has a current security clearance and/or access granted by the NSA/CSS, and regarding any other individual assigned or detailed to the NSA/CSS when such records are relevant to a final determination with respect to employment, continued assignment or detail, clearance, access or other related actions.

(b) The NSA/CSS shall seek the consent of an individual when obtaining that individual's financial records from a financial institution. Refusal of an individual to provide such consent may be grounds for denying access to all Sensitive Compartmented Information (SCI) and to other classified information in NSA/CSS custody if the circumstances of such refusal or the nature of the records sought prevent the NSA/CSS from determining that such access is or would be clearly consistent with the national security.

(c) Any actions relative to obtaining financial records without an individual's consent shall be conducted in accordance with the provisions of DoD Directive 5400.12, found in 32 CFR part 275, as appropriate.

[46 FR 880, Jan. 5, 1981. Redesignated and amended at 56 FR 64482, Dec. 10, 1991]

§ 271.3 Procedures.

(a) Representatives of NSA/CSS Security shall use a consent form as set out in Enclosure 2 of 32 CFR part 275, relative to obtaining financial records. A copy of the consent form shall be made a part of the individual's NSA/CSS security file, and an additional record copy of the form kept by security for the purpose of an annual report. A certification form as set out in Enclosure 4 of 32 CFR part 275 shall be provided to financial institutions by security representatives along with the consent form certifying compliance with 12 U.S.C. 3401 *et seq.*

(b) Procedures used by security regarding matters referenced in paragraph (a) of this section, shall be established on a case-by-case basis and shall be in consonance with the appropriate provisions of 32 CFR part 275.

(c) Financial records obtained under 12 U.S.C. 3401 *et seq.* shall be marked: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 *et seq.*, and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412." Except in accordance with paragraph (e) of this section such records shall not be transferred to another agency or department outside the Department of Defense unless the Chief, Security, or delegate certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Such certificates shall be maintained in the appropriate NSA/CSS security file with copies of the released records.

(d) Unless alternate procedures are involved as referenced in paragraph (b) of this section, when financial records have been transferred to another agency, a security representative shall, within 14 days, personally serve or mail to the individual whose records have been transferred, at his or her last known address, a copy of the certificate required by paragraph (c) of this section, and the following notice: "Copies of or information contained in your financial records lawfully in possession of the NSA/CSS have been furnished to (name of agency) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose(s): (state reason). If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(e) In cases where another federal agency authorized to conduct foreign intelligence or foreign counterintelligence activities requests a financial record held by the NSA/CSS, and makes such a request for the purpose of conducting that Agency's protective functions, the NSA/CSS may release the information without notifying the individual to whom the financial record pertains.

[46 FR 880, Jan. 5, 1981. Redesignated and amended at 56 FR 64482, Dec. 10, 1991]